

1 THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
2
3 CASE NO.: ICTR-97-20-T THE PROSECUTOR
4 OF THE TRIBUNAL
5 AGAINST
6 LAURENT SEMANZA
7
8 30 OCTOBER 2001
9 0930H
10 CONTINUED TRIAL
11
12 Before: Judge Yakov Ostrovsky, Presiding
13 Judge Lloyd G. Williams
14 Judge Pavel Dolenc
15
16 For the Registry:
17 Mr. Constant Hometowu
18 Mr. Thobias Ruge
19
20 For the Prosecution:
21 Mr. Chile Eboe-Osuji
22 Ms. Patricia Wildermuth
23
24 For the Accused Semanza:
25 Mr. Charles Acheleke Taku
Mr. Sadikou A. Alao
Court Reporters:
Mr. Haruna Farage
Ms. Judith Kapatamoyo
Ms. Karlene Ruddock

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P R O C E E D I N G S

3 MR. PRESIDENT:

4 The proceedings are called to order. I ask
5 the Registrar to present today's case?

6 MR. HOMETOWU:

7 Thank you, Mr. President. Trial Chamber III
8 of the International Criminal Tribunal for
9 Rwanda, composed of Judge Yakov Ostrovsky,
10 presiding, Judge Lloyd G. Williams, and
11 Judge Pavel Dolenc, is now sitting in open
12 session, today, Tuesday, the 30th of October
13 2001, for the continued trial in the matter
14 of the Prosecutor versus Laurent Semanza,
15 Case No. ICTR-97-20-T. Thank you.

16 MR. PRESIDENT:

17 Thank you.

18

19 For the record, the appearance of the
20 Prosecution.

21 MR. EBOE-OSUJI:

22 Eboe-Osuji and Ms. Wildermuth for the
23 Prosecution. Also with us is Rashid, our
24 case manager.

25 MR. PRESIDENT:

1 MR. TAKU:

2 My Lord, Charles Taku for the Defence. With
3 me, my learned colleague, Mr. Sadikou Ayo
4 Alao, and Mr. Joseph Mushyandi, our legal
5 assistant.

6 MR. PRESIDENT:

7 Thank you.

8 MR. TAKU:

9 May it please Your Lordships. We want to
10 inform the Court rapidly, My Lord, that
11 witness CBN have been taken to the hospital,
12 once more, this morning. We are informed
13 that she was taken back to the doctor this
14 morning, because she has a risky pregnancy.
15 The situation was caused by the fact that
16 travelling by plane with six months
17 pregnancy which is rather risky, so she was
18 taken to hospital this morning. And we are
19 doing everything possible for her to be
20 present here tomorrow. So, we want to just
21 inform the Prosecutor, and that we received
22 this information from the witness protection
23 this morning, that they were taking her back
24 to the hospital.

25

1 Second point, My Lord, is that, we have a
2 standing motion. We did notify Your
3 Lordships, among other motions on from the
4 24th of October, that we want to make an
5 application, oral application to Your
6 Lordships about the judicial calendar. When
7 that application is made, it would assist
8 the Defence in handling other motions, and
9 comply with other -- the rulings that -- I
10 mean with the questionnaire and other
11 issues. So, Your Lordship will indicate
12 when it would be appropriate for us to make
13 that motion.

14 MR. PRESIDENT:

15 I understand that we'll start this morning
16 with the Witness SDN1.

17 MR. TAKU:

18 Yes, My Lord. I think the witness is
19 available, My Lord.

20 MR. PRESIDENT:

21 Yes. As the motion is concerned, we did not
22 see so far this motion, and it will be
23 considered.

24 MR. TAKU:

25 Yes, My Lord. We informed the Court orally

1 that we will make a motion on the judicial
2 calendar and we just want Your Lordships to
3 let us know when it would be convenient, at
4 the discretion of Your Lordships, when it
5 would be convenient for us to make that oral
6 application.

7 MR. PRESIDENT:

8 Mr. Taku, I don't know what motion you are
9 talking about. I know it was your letter to
10 coordinator of the Chamber.

11 MR. TAKU:

12 Yes, My Lord. But, thereafter, on the 24th,
13 when the issue of other motions were raised,
14 I did indicate, as I'm indicating --
15 reiterating now, that we intend, My Lord, to
16 make an oral motion on this issue before
17 Your lordships. I'm just reiterating that
18 we intend to make an oral motion to that
19 effect. Your Lordship will let us know when
20 it is more convenient, because we consider
21 this a very, very fundamental issue. The
22 Defence, from our own end, we consider this
23 is very, very fundamental issue for which we
24 would like arguments to be taken, and the
25 panel, the full panel would take a decision

1 about it.

2 MR. PRESIDENT:

3 My proposal is, let's complete the
4 examination of Witness SDN1, and after that
5 we'll consider what could done, taking into
6 account the situation with the Witness CBN
7 you mentioned, and about your motion.

8 MR. TAKU:

9 Yes. Thank you, My Lord. Can the
10 Registrar, please, bring in Witness SDN1?

11 MR. PRESIDENT:

12 The witness has to make a solemn
13 declaration.

14

15 (Declaration made by Witness SDN1 in
16 Kinyarwanda)

17

18 Witness, you made a solemn declaration. You
19 have to tell the truth, as it was indicated.
20 And you are protected witness, and all
21 necessary measures are taken not to disclose
22 your identity. And, in your answers to the
23 questions, you have to be very careful. And
24 your obligation is to answer the questions.
25 Try to understand the questions, and to give

1 a concrete, direct answer. No narratives,
2 no comments, no declarations. This is the
3 procedure.

4
5 I hope you understand it.

6
7 Who will examine this witness?

8 MR. TAKU:

9 I will do the examination-in-chief, My Lord.

10 MR. PRESIDENT:

11 Mr. Taku, you may proceed.

12

13 EXAMINATION-IN-CHIEF

14 BY MR. TAKU:

15 Q. Good morning, Witness SDN1.

16 A. Good morning, Counsel.

17 Q. Witness, we are here in open session, which
18 means that whatever you say in open session
19 could be understood by the public, the
20 press, and indeed, the world at large,
21 because there are journalist here to report
22 to the world at large about what you may
23 testify in open session. Translator, please
24 help.

25

1 In this regard, therefore, you should do
2 everything possible to avoid saying anything
3 that would reveal your identity, because you
4 are a protected witness. You also have a
5 duty, Witness, to answer all questions with
6 due respect to the Court, to the Prosecutor,
7 and to whosoever is mandated to ask
8 questions to you in this session.

9
10 Witness, you've just taken a solemn
11 declaration before Their Lordships to tell
12 the truth, the whole truth and nothing but
13 the truth.

14
15 Now, Witness, questions that could reveal
16 your identity will be answered or will be
17 asked or answered in a closed session.

18 MR. TAKU:

19 Now, will the Registrar, please help?
20 Show the witness this sheet of paper, and
21 give these copies to Their Lordships.

22 BY MR. TAKU:

23 Q. Witness, look at that sheet of paper, look
24 at the information on it, and tell me
25 whether it is correct?

1 A. The information contained in this document
2 is correct.

3 MR. TAKU:

4 Now, Registrar, please, show that sheet of
5 paper to the learned Prosecutor.

6

7 May it please Your Lordships, we seek leave
8 of the Court to tender this document as D19.

9 MR. PRESIDENT:

10 What is the point of view of the
11 Prosecution, no objection?

12 MR. EBOE-OSUJI:

13 None, Your Honour.

14 MR. PRESIDENT:

15 No objection of the Prosecution, it will be
16 admitted as a piece of evidence.

17 MR. TAKU:

18 D19. Thank you, My Lord.

19 MR. PRESIDENT:

20 D19.

21

22 (Exhibit No. D19 was admitted).

23 BY MR. TAKU:

24 Q. Now, Witness SDN1, do you know Mr. Laurent
25 Semanza?

- 1 A. I know him.
- 2 Q. If you see him in this Court hall, can you
- 3 recognise him?
- 4 A. Yes.
- 5 Q. With Their Lordships permission, Witness
- 6 SDN1, may you please stand up and look at
- 7 the Court hall and see whether you can
- 8 recognise Mr. Semanza?
- 9
- 10 Yes, can you recognise him? Point him out
- 11 if you can find him in this Court hall?
- 12 A. He is there.
- 13 Q. Can you describe him to Their Lordships for
- 14 the record?
- 15 A. He is sitting behind the person who is
- 16 standing up and who is speaking. He is
- 17 wearing a striped shirt. He is wearing a
- 18 white tie. He is bald and he is wearing
- 19 earphones.
- 20 MR. TAKU:
- 21 May it please Your Lordship, we want the
- 22 record to reflect that the witness has
- 23 identified Mr. Semanza in open Court.
- 24 MR. PRESIDENT:
- 25 It will be reflected in the record that the

- 1 witness recognise the Accused.
- 2 BY MR. TAKU:
- 3 Q. Now, Witness SDN1, prior to coming to this
4 Court hall, had you known Mr. Semanza?
- 5 A. I knew him.
- 6 Q. Can you tell their Lordships how you knew
7 Mr. Semanza?
- 8 A. I know Laurent Semanza from his native
9 commune of Musasa. I will spell Musasa,
10 M-U-S-A-S-A. I also know him from the
11 commune which he led as a bourgmestre; that
12 is the Bicumbi commune. I knew him in
13 Kigali where he used to go often to his
14 residence.
- 15 Q. When -- at what point in time did you know
16 Semanza in Bicumbi commune?
- 17 A. In the Bicumbi commune of which he was the
18 bourgmestre, I knew Semanza when I was a
19 student in the commune.
- 20 Q. Now, without saying anything what would
21 reveal your identity, from what time to what
22 time were you a student in Bicumbi? From
23 what year to which year were you a student
24 in Bicumbi?
- 25 A. With your permission, I would like to seek

1 authorisation to answer this question in a
2 closed session.

3 Q. Now, you say you knew Semanza in Bicumbi
4 commune --

5 THE ENGLISH INTERPRETER:

6 I beg your pardon, to answer this question
7 in a closed session. There was a slip
8 there, sorry.

9 BY MR. TAKU:

10 Q. Now, you just stated that you knew Semanza
11 in Bicumbi commune. Did you know what --
12 did you know the profession of Semanza at
13 the time you knew him in Bicumbi commune?

14 A. I knew that he was a bourgmestre of Bicumbi.

15 Q. Now, apart from being the bourgmestre of
16 Bicumbi, did you know any other professional
17 activities that Semanza carried out,
18 professional or commercial activities that
19 Semanza carried out within that time that
20 you knew him in Bicumbi?

21 A. I know, and actually many people know that
22 Semanza was a businessman. However, he was
23 not involved -- he did not do his business
24 in Bicumbi commune. I know that he had
25 lorries which transported goods from Rwanda

- 1 to other countries.
- 2 Q. Can you tell Their Lordships the country to
- 3 which he transported -- these vehicles
- 4 transported the goods from Rwanda to?
- 5 A. I do not know very well. I'm not able to
- 6 tell you where those lorries went to. I was
- 7 still young. I knew Semanza as a senior
- 8 official. I did not know him closely.
- 9 Q. Now, but you say that you knew him in the
- 10 Bicumbi commune, can you tell Their
- 11 Lordships, if you know anything about the
- 12 relationship between Semanza and the
- 13 inhabitants of Bicumbi commune, the
- 14 relationship between the different ethnic
- 15 composition, the ethnic -- the different
- 16 groups of Bicumbi commune, within the period
- 17 you say you knew him in Bicumbi?
- 18 A. In general, I knew Semanza as someone who
- 19 was concerned with the development of his
- 20 commune, and everybody knew about that. And
- 21 I know that in 1990, 1991 and '92, his
- 22 commune was considered as one of the most
- 23 developed rural communes. I also know that
- 24 Semanza was someone who led his commune
- 25 without ethnic discrimination. If I

- 1 understood your question well, he did not
2 practice discrimination. He was someone who
3 could stop his car on the road in order to
4 give lift to children, even if he didn't
5 know those children. Semanza did not
6 practice discrimination on ethnic, gender,
7 or on the basis of age.
- 8 Q. Very well. But did you know also within the
9 time that you knew Semanza in Bicumbi, did
10 you know whether Semanza had enemies?
- 11 A. I think that I cannot answer that question,
12 Counsel. It will be difficult for me to say
13 whether Semanza had enemies, because I told
14 you that I did not know him closely. That
15 was something which was not said on the
16 radio or in the newspapers. So, it's
17 difficult to answer your question.
- 18 Q. Now, Witness SDN1, within the time that you
19 knew Semanza in Bicumbi, did you ever see
20 Semanza training the Interahamwe?
- 21 A. No, I did not see him.
- 22 Q. Now, do you know who were the Interahamwes?
23 If you know, tell Their Lordships?
- 24 A. I do not know a specific -- the specific
25 meaning of that word. I heard it. It was a

- 1 word which was used. The Interahamwe were
2 the supporters of the MRND party. They were
3 the youth wing of the MRND party.
- 4 Q. During the period you say you knew Semanza
5 in Bicumbi commune, did you ever see these
6 Interahamwe with arms?
- 7 A. I never saw any such thing, even if it was
8 difficult for me to distinguish the
9 Interahamwe from other people.
- 10 Q. During the time you say you knew Semanza in
11 Bicumbi commune, did you ever see Semanza
12 distributing arms to the Interahamwe, or to
13 any member of the population of Bicumbi,
14 within the time you say you knew him?
- 15 A. I earlier told you that I could not
16 distinguish the Interahamwe from other
17 people. However, answering your question, I
18 did not see Semanza distributing weapons.
- 19 Q. Now, we would come back to Bicumbi later on,
20 perhaps in the closed session, but let's now
21 go to Kigali. You earlier told Their
22 Lordships this morning that you also knew
23 Semanza in Kigali; is that correct?
- 24 A. That is correct.
- 25 Q. Without saying anything that would reveal

1 your identity, how did you know Semanza in
2 Kigali?

3 A. If you allow me, then I would prefer
4 answering that question in the closed
5 session. The same thing applies to the
6 question that you put to me prior to that.

7 Q. Now, Witness SDN1, prior to your coming
8 here, an investigator, did the Defence
9 investigator visit you in the country in
10 which you now live; right?

11 A. Yes, that is correct.

12 Q. Did you have the possibility of discussing
13 with him about the death of certain
14 personalities, Hutu personalities, in
15 Rwanda, prior to 1994?

16 A. Discuss with who, Counsel?

17 Q. Now, listen to the questions properly. If
18 you don't understand, ask that the question
19 will be repeated. When that investigator
20 came, did you have the possibility of
21 telling him about the death of certain Hutus
22 in Rwanda, prior to 1994? About the
23 killings, the killings of some Hutus by the
24 FPR prior to 1994 in Rwanda.

25

1 MR. EBOE-OSUJI:

2 Your Honour, my friend should watch it.
3 These answers (sic) are beginning to look
4 very leading. Although, it is not asked in
5 a clearly suggestive manner, but it is been
6 very leading. And I don't think that the
7 witness should be approached from the
8 viewpoint of any prior statement he would
9 have given to the investigator, not
10 certainly from the examiner in chief.

11 MR. PRESIDENT:

12 Mr. Taku, please take it into account.

13 BY MR. TAKU:

14 Q. Now, Witness, is it your position that prior
15 to --

16 MR. EBOE-OSUJI:

17 Objection. That is clearly leading.

18 MR. TAKU:

19 The question has not been asked.

20 MR. EBOE-OSUJI:

21 It doesn't need to be finished before it is
22 clear that "is it your position" is leading
23 somebody into a proposition, it is better
24 that I catch it before you do it, than for
25 me to wait until you finish doing it.

1 MR. TAKU:

2 My Lord, we know what the Defence (sic) did
3 with the cross-examination of witnesses. It
4 is proposition. He led out propositions and
5 asked questions. And Your Lordship -- I
6 objected and Your Lordships found them to be
7 properly -- perfectly in order.

8 MR. PRESIDENT:

9 No, the question could be formulated,
10 whether you know something about the
11 killings prior or before '94. This is your
12 idea, your question?

13 MR. TAKU:

14 Yes, My Lord.

15 THE WITNESS:

16 Yes, I know something about it.

17 BY MR. TAKU:

18 Q. Can you tell Their Lordship what you know
19 about that?

20 A. As early as 1990 when the RPF attacked, it
21 is said that they were killing the Hutus on
22 their way. Besides, it was said that the
23 RPF was torturing these Hutus. And then, in
24 the country, there were RPF infiltrators who
25 killed political leaders as well as other

1 important Hutus. By way of example, I would
2 like to mention one FIDEL Rwambuka, who was
3 bourgmestre of the Kanzenzenze commune. I
4 spell Rwambuka, R-W-A-M-B-U-K-A. I spell
5 Kanzenzenze, K-A-N-Z-E-N-Z-E. They also
6 killed one Emmanuel Gapyisi. I spell
7 Gapyisi, G-A-P-Y-I-S-I. He was also
8 killed. And yet another person called
9 Bucyana, President of the CDR party was
10 killed. Bucyana is, B-U-C-Y-A-N-A. Another
11 victim was Katumba. Katumba was also a
12 member of the CDR party. I spell Katumba,
13 K-A-T-U-M-B-A. All these persons were
14 killed by the RPF infiltrators.

15 Q. Now, as a result of these massacres, of
16 these killings, did the Hutus take any steps
17 or took defence, to your knowledge, if you
18 know, tell Their Lordships?

19 A. It is obvious that the RPF, using it's
20 infiltrators, eliminating important Hutus.
21 And as a reaction, each Hutu, at his own
22 level, took measures to protect himself from
23 the infiltrators, some of them reinforced
24 the gate to their houses, because following
25 the killings of Rwambuka, it became obvious

1 that a grenade was thrown through his
2 window. And since it was known that a
3 grenade can break through wood and glass,
4 and not metal, people decided to reinforce
5 their gates so as to protect themselves.

6 This is just an example.

7 Q. Now, Witness, to the best of your knowledge,
8 did this measure towards self defence
9 include arms, the distribution of arms?

10 A. To my knowledge, there was no consultation.
11 These are individual measures. So, there is
12 no link between the self defence and the
13 distribution of weapons.

14 Q. Now, Witness SDN1, were you in Rwanda on or
15 about the 6th of April 1994?

16 A. Yes, I was in Rwanda.

17 Q. Can you tell Their Lordships, if you know
18 something, an event, memorial event that
19 took place on the 6th of April, 1994, in
20 Rwanda?

21 A. Counsel, I am not too sure if your question
22 is referring to 6th specifically or a bit
23 before or after, you want to be a bit
24 clearer?

25 Q. Yes, I want to know the events of the 6th,

1 other questions would be asked thereafter,
2 but tell us what you know, what happened on
3 the 6th? Did anything happen in Rwanda
4 which has consequences on the life of the
5 Republic, to your knowledge, if you know,
6 please tell Their Lordships?

7 A. Yes, I know these events. And I believe all
8 of us here, even those who are not Rwandans,
9 are aware of that event. I'm referring to
10 the death of the President of the Republic,
11 Juvenal Habyarimana, who died in a plane
12 crash, and then there were the RPF attacks,
13 and the mass exodus of the population.

14 Q. Now, after the death, that plane crash, that
15 fateful plane crash of the 6th of April,
16 1994, how did you feel as a Rwandese
17 citizen? What was your feeling as a
18 Rwandese citizen?

19 A. Before the death of President Habyarimana,
20 as I stated earlier, the RPF was killing
21 Hutus on its way. And, in regions that have
22 not yet been occupied by the RPF, its
23 infiltrators were killing important Hutus.
24 I could, therefore, say that there was total
25 chaos in the country. That is the first

1 thing. Second, grenades were being thrown
2 at everybody. Mines were laid everywhere,
3 in taxis, there was chaos. And when the
4 plane of the President of the Republic was
5 down, the chaos became total. After the
6 death of the President, everybody was
7 expecting a bigger chaos.

8 Q. How then did you, as an individual, consider
9 the death of the President? That's the
10 question, how did you consider it?

11 A. The death of the President was received by
12 virtually everybody with sadness. We had no
13 other alternative.

14 Q. Now, can you tell Their Lordships what
15 happened, in the locality where you were
16 immediately after the death of the
17 President, because, I mean -- sorry. Let me
18 put the question, rephrase the question.
19 You said that the FPR had killed important
20 Hutus. Now, did the FPR act in any
21 particular manner in the locality where you
22 lived immediately after the death of the
23 President?

24 A. When the President of the Republic died, I
25 was not at home, I was elsewhere. We heard

1 gunfire, sustained gunfire, explosions of
2 grenades and a mix of all that. But since
3 we could not get out, I couldn't -- I didn't
4 know what was happening outside, because I
5 was indoors.

6 Q. Now, I want to ask you this question. Were
7 you in Bicumbi or Gikoro in April 1994?

8 A. No, I was neither in Bicumbi nor Gikoro,
9 because I hadn't gone to those communes for
10 a very long time.

11 Q. So, the situation which you were describing,
12 the situation in the locality which you
13 left, which you need not give the name where
14 you were living in, which you never give the
15 name; am I correct?

16 A. Counsel, can you take the question again?

17 Q. Now, since you he said he was neither in
18 Bicumbi nor Gikoro, in April 1994, the
19 situation that he had just described to
20 Their Lordships was the situation that
21 obtained in the locality which he found
22 himself, in which he found himself at that
23 time; am I correct?

24 A. That is correct. That is what I stated.

25 Q. Now, for the open session, you need to say

1 how, just answer this question directly.

2 Did you know one Gatwa Tharcisse?

3 A. Yes, I know Gatwa Tharcisse.

4 Q. Now, at the time that you knew Semanza in

5 Bicumbi, did you have the possibility of

6 knowing Semanza's house in Bicumbi commune?

7 A. I knew the location of his house, even if I

8 didn't go there often, given the fact that

9 we do not have any close relationship.

10 Q. You also stated to Their Lordships that you

11 knew Semanza as a bourgmestre of Bicumbi.

12 Did you know when he ceased to be

13 bourgmestre of Bicumbi? If you know,

14 please, tell Their Lordships.

15 A. If I memory serves me right, Semanza stopped

16 his functions as bourgmestre in 1993.

17 Q. Now, answer this question, because I'm sure

18 that it's not going to reveal your identity.

19 That's why I ask the question in a public

20 session. Where were you between 1990 and

21 1992 in Rwanda? I'm sure that it's not

22 going to reveal your identity. That's why I

23 ask this question in the public session.

24 MR. PRESIDENT:

25 Are you sure, Maitre? It seems to me, it's

1 better to raise this question in a closed
2 session.

3 BY MR. TAKU:

4 Q. Do you know the reasons for which Semanza
5 was dismissed as a bourgmestre? If you
6 know, please, tell Their Lordships.

7 A. I don't know the reasons very well.

8 Q. Now, you just told Their Lordships about
9 things that happened in your locality in
10 April 1994, can you tell Their Lordships, if
11 you know, whether there were barriers,
12 roadblocks in your locality in April 1994,
13 without revealing the name of the locality?

14 A. Yes, there were roadblocks.

15 Q. Were you personally present at any of the
16 roadblocks, or did you cross any of the
17 roadblocks in April 1994?

18 A. I was not present at a roadblock, but I did
19 cross some roadblocks.

20 Q. Now, when did you cross any roadblock in
21 1994?

22 A. I did not cross roadblocks in April 1994,
23 but rather beginning of May, when it was
24 possible to come out of one's house, I
25 crossed a roadblock. In getting out of the

1 house, I crossed roadblocks.

2 MR. EBOE-OSUJI:

3 Your Honour, I just noticed that the witness
4 gave that answer in French, and the
5 interpreter repeated it in French. I think,
6 this whole thing is becoming a little
7 comical. Why can't the witness simply
8 answer questions directly, and we move on?

9 MR. PRESIDENT:

10 Witness, if you can speak French, it will be
11 fine, because in such a situation, we could
12 reduce our time, but you have to decide,
13 because this is your right to take the
14 decision. The interpreter is next to you,
15 and, in the case, if you did not understand
16 something, you could ask him, but if you are
17 able to answer in French, please you will be
18 welcome.

19 MR. TAKU:

20 May it please Your Lordships. The question
21 of speaking in Kinyarwanda is a conscious
22 choice, for the sake that there is somebody
23 in the Court here who needs to understand
24 and follow the proceedings. If a witness
25 was to come and speak any other language,

1 they would need the translation to Mr.
2 Semanza.
3
4 So, it's better for him if he understands
5 the language, then Mr. Semanza would
6 understand, that is Kinyarwanda, for him to
7 speak in Kinyarwanda. The other appeal I
8 would make to him is that, he should choose
9 one of the languages clearly, instead of
10 answering in French, partly in French and
11 partly in Kinyarwanda, it creates problem
12 for the Accused.

13 MR. EBOE-OSUJI:

14 Your Honour, I do appreciate the concern of
15 the -- for the need for the defendant to
16 follow the proceedings in Kinyarwanda, if
17 that is the language he is most comfortable
18 in, I do appreciate that. But what can
19 happen in that case, is for the system we
20 are operating here, to recognise the need to
21 have a simultaneous Kinyarwanda interpreter
22 in the booth, so that it would still cut the
23 time, like we have between speaking one
24 language and having it recorded, and read to
25 the witness who perfectly understands

1 French, and then what is read to him is then
2 translated or rather, interpreted into
3 French, and we have all these relays going
4 on. We can have a Kinyarwanda interpreter
5 in the booth who will be simultaneously
6 interpreting the proceedings for the Accused
7 person. Of course, I am not saying we
8 should do that right now, because the
9 logistics might not be able to handle it
10 immediately, but to look into doing that, we
11 have at least 15 more witnesses for the
12 Defence, and if we can cut out the time, we
13 can do this thing much faster.

14 MR. PRESIDENT:

15 The situation is the following: There are
16 two official languages; English and French,
17 and if the witness has sufficient knowledge
18 of French, he has to speak French. This is
19 the indication, and the provisions of our
20 Rules of Procedure. Therefore, the question
21 is only whether the witness has sufficient
22 knowledge of French language just to speak
23 French? Will you check it?

24 THE WITNESS:

25 I am much more at ease in Kinyarwanda. It

1 is true that I also understand French, but I
2 prefer to speak Kinyarwanda.

3 MR. PRESIDENT:

4 In the case, if your knowledge of French
5 language is not sufficient, only in this
6 case, you can speak Kinyarwanda.

7

8 Will you translate?

9

10 And I would like to indicate this is the
11 Rule 3 of our Rules of Procedure, "Any other
12 person appearing before the Tribunal who
13 does not have sufficient knowledge of either
14 of the two working languages, may use his
15 own language." Only in this case.

16 MR. TAKU:

17 Yes, My Lord.

18 MR. PRESIDENT:

19 Just a moment. We would like to receive the
20 answer of the witness.

21 MR. EBOE-OSUJI:

22 Your Honour, I don't intend to interpose
23 myself between your enquiry and the witness,
24 but perhaps Your Honours can look at Item 9
25 of Defence Exhibit 19. I believe that

1 answer may already have been clearly supply
2 in Item 9 of Defence Exhibit 19. It is
3 quite clear, Your Honour.

4 MR. PRESIDENT:

5 Mr. Osuji, I can tell you only that before
6 it was indicated English and French, but
7 when we started to try and to find out what
8 is the situation, these two foreign
9 languages were very poor. Therefore, we
10 cannot rely only upon this indication.

11 MR. EBOE-OSUJI:

12 Your Honour, together with Item 10, again,
13 I'm not discussing details, when we combine
14 Item 9, 10, plus the fact that the witness
15 supplied the answer in French, Your Honour,
16 we begin to get somewhere. We understand
17 that people want to feel most comfortable in
18 certain languages, but it isn't a question
19 of what the witness prefers, or what the
20 witness feels most comfortable in. There
21 are a lot of people, Your Honour, even those
22 on the bench and at counsel's table whose
23 first and most comfortable language is not
24 English or French, but we all try our best
25 to do it. So, if it can work for us, it can

1 work for witnesses too.

2 MR. TAKU:

3 My Lord, the Defence is still waiting. We
4 took the floor first to apply first. Your
5 Lordship asked me to wait.

6 MR. PRESIDENT:

7 Yes, you have the floor.

8 MR. TAKU:

9 My Lord, at this time, we are making an
10 application that if he were to speak in
11 Kinyarwanda, Your Lordships should make
12 available, perhaps immediately somebody to
13 translate for Semanza in the language he
14 understands. Now, if Your Lordships were
15 to, in the course of these proceedings, in
16 the middle of these proceedings, to take the
17 stand Your Lordships is taking, Semanza
18 retains the right to follow the proceedings
19 in the language he understand, that is,
20 Kinyarwanda. And, therefore, we apply to
21 Your Lordships to make available a
22 Kinyarwanda translator to translate for
23 Semanza.

24 MR. PRESIDENT:

25 Mr. Taku, this is a technical matter, and we

1 have to rely upon the Rules of Procedure. I
2 read a Rule of Procedure, and therefore,
3 it's compulsory to everybody. Therefore,
4 the only question whether, and I repeat my
5 question, and you would like to find out and
6 to ask the witness whether his knowledge of
7 the French language is sufficient to answer
8 in French?

9 THE WITNESS:

10 If I may, Mr. President, I'd like to say
11 that I express myself better and understand
12 Kinyarwanda better. I can express myself in
13 French, but I'm not very comfortable in
14 French.

15 MR. PRESIDENT:

16 Well, therefore, the matter is over, and we
17 have to continue. And, in such a situation,
18 I understand the response of the witness
19 that his knowledge of the French is not
20 sufficient to answer in French.

21 MR. EBOE-OSUJI:

22 Your Honour, I don't think that's quite what
23 the witness said. I don't think he said his
24 knowledge is not sufficient. He said he
25 understands Kinyarwanda and speaks

1 Kinyarwanda better. And I do not dispute
2 that. Right. There is a question of
3 sufficiency of knowledge.

4
5 Your Honours, I'm in your hands what you
6 intend to do, but I just wanted to indicate
7 that in the event that the decision was
8 taken for the witness to speak in French, we
9 do not oppose Mr. Taku's application to have
10 a Kinyarwanda interpreter sitting by the
11 Accused person. I just, for now, and for
12 future purposes, Your honour.

13 MR. TAKU:

14 My Lord, at the moment, there is no motion
15 before Your Lordships to provoke this
16 debate. If my colleague wanted to make a
17 motion, he can make a motion. He made an
18 observation. Why should that observation
19 take a lot of time? And with the intention
20 of derailing the Prosecution (sic) in the
21 heart of the examination-in-chief.

22 MR. PRESIDENT:

23 I don't want to continue this discussion. I
24 understood the answer in such a way that the
25 witness can have some difficulties in the

1 French. And, therefore, I cannot insist
2 that his answers could be given, in the
3 case, if he has some difficulties to answer
4 in French.

5
6 Therefore, I cannot rely upon the indication
7 of this identity paper that the French is
8 mentioned, but, at the same time, very
9 often, the reality doesn't coincide with
10 these things which are indicated in the
11 paper.

12
13 Okay, you may proceed.

14 BY MR. TAKU:

15 Q. Yes, Witness, I did ask you about the
16 roadblock, you said you crossed one
17 roadblock in May 1994. Can you tell
18 Their Lordships, please, in this open
19 session, where that roadblock was located?

20 A. As I said earlier, I did not cross a single
21 -- I did not cross just one roadblock, I
22 left Gitarama, I went to Gitarama to Kigali.
23 And I crossed several roadblocks.

24 Q. Now, the question I asked earlier, how many
25 roadblocks did you cross, tell Their

1 Lordships?

2 A. There were several roadblocks from Kigali to

3 Gisenyi. I had to go through so many

4 roadblocks. Everybody would understand that

5 it would be difficult for me to give the

6 number of these roadblocks.

7 Q. Who were the people manning these

8 roadblocks?

9 A. These were either gendarmes or soldiers.

10 Q. Did you find any corpses at these roadblocks

11 that you crossed in May 1994?

12 A. I did not see any corpse.

13 MR. PRESIDENT:

14 Mr. Taku, it is 11 o'clock, are you ready

15 for the break for 15 minutes?

16 MR. TAKU:

17 Yes, My Lord.

18 MR. PRESIDENT:

19 Okay. Then a break for 15 minutes, and

20 we'll resume our proceedings in 15 minutes.

21

22 (Court recessed at 1100H and resumed at

23 1125H)

24 MR. PRESIDENT:

25 The proceedings are resumed.

- 1 Mr. Taku, you may proceed.
- 2 MR. TAKU:
- 3 Thank you, My Lord.
- 4 BY MR. TAKU:
- 5 Q. Now, Witness SDN1, you stated that you
- 6 escaped in May 1994, now without revealing
- 7 the name of the locality in which you were,
- 8 can you tell Their Lordships whether between
- 9 April 1994 to the date in May 1994 that you
- 10 escaped, whether you have the possibility of
- 11 moving freely within that locality in which
- 12 you lived?
- 13 A. That was not possible, because nobody knew
- 14 what was happening. And, personally, maybe
- 15 I'm speaking in a general manner, in that I
- 16 didn't know what was going on outside. So,
- 17 when I left my house, I actually got an idea
- 18 of what was happening outside.
- 19 Q. Now, why had you to lock up yourself in your
- 20 house from April 1994 to May 1994?
- 21 A. Could you repeat the date, Counsel, please?
- 22 Q. Why had he to lock up himself in his house
- 23 between April 1994 and May 1994, when he
- 24 fled?
- 25 A. I remained indoors because I was frightened.

1 I did not know what was going on outside. I
2 heard gunshots, grenade explosion, and so on
3 and so forth.

4 Q. Now, what was the immediate reason that
5 forced you to flee, to leave your -- where
6 you were hiding and fled; can you tell Their
7 Lordships?

8 A. When the shooting decreased, we left our
9 houses and we saw people moving about, so,
10 we understood we too could leave.

11 Q. Now, earlier you told Your Lordships that
12 you met the barriers on the way to Gitarama.
13 What led you to move instead to Gitarama,
14 and not to any other region in Rwanda?

15
16 Now, please, Witness, make sure that you do
17 not reveal the locality in which you were
18 living. Answer the question using the
19 locality in which I was leaving to Gitarama.
20 So, do not call the name of the locality in
21 which you were living so as not to reveal
22 your identity?

23 THE KINYARWANDA INTERPRETER:

24 The witness had answered the question as
25 follows: When I left my house, I wanted to

1 flee towards Kigali, in fact, everybody
2 wanted to flee towards Kigali, and everybody
3 took the path of his choice in order to
4 leave the locality. When I went through
5 Gitarama, my intention was actually to get
6 to Gisenyi.

7

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9 (Pages 1 to 37 by Haruna Farage)

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1 1130H

2 MR. TAKU:

3 Yes, the question was, why, why had you to
4 go to that direction? Why had you to move
5 to that direction and not to any other
6 locality in Rwanda?

7 A. There were two possible roads. The first
8 Ruhengeri/Gisenyi -- was the
9 Ruhengeri/Gisenyi main road, but we learnt
10 that that was not a safe road. The other
11 alternative was the southern road. In other
12 words, we went towards the south so we had
13 to pass through Gitarama in order to get to
14 Gisenyi. So we opted for the southern road.

15 Q. Now when you got to Gitarama was the
16 situation exactly as the situation you left
17 in your locality, or the situation in
18 Gitarama was different?

19 MR. PRESIDENT:

20 Counsel, your question is not answered --
21 your question is not clear. Could you be
22 more specific. What do you mean by the
23 situation?

24 BY MR. TAKU:

25 Q. You described the situation in your locality

1 between April 1994, to May 1994. You heard
2 gunshots, you heard explosives. Now when
3 you got to Gitarama was that the same
4 situation, gunshots, grenade explosions or
5 the situation was different?

6 A. The situation in Gitarama was different
7 apart from the fact that we came across a
8 roadblock, there was no firing, so we could
9 proceed on our journey.

10 Q. Now did you at any time in the course of
11 your flight meet Laurent Semanza, if yes,
12 where?

13 A. I remember that when I got to Gitarama I saw
14 Laurent Semanza, but I did not speak to him.
15 He was in his car, an Audi 100, which was
16 white and that was in Gitarama town, but I
17 do not remember the date on which I saw him
18 but it was in the beginning of the month of
19 May.

20 Q. Now let's pass to another line of
21 questioning. Have you ever heard of the
22 words Hutu moderate? Moderate Hutus?

23 A. Yes, I heard the expression, Hutu moderate.

24 Q. Did that expression make any sense to you;
25 if, yes, tell Your Lordships; if no, tell

- 1 Your Lordships?
- 2 A. Personally, and other ordinary Hutus, as
- 3 well, cannot (sic) tell you that I did not
- 4 use this expression. The expression
- 5 moderate Hutu was not normally used by
- 6 ordinary citizens. It was an expression
- 7 used by politicians. Ordinary people did
- 8 not use the expression moderate Hutus. In
- 9 fact at that time there was no
- 10 discrimination between the various groups.
- 11 Q. Now, do you know one Mutemberazi, Pierre
- 12 Crevalle. Mutemberazi, let me spell it.
- 13 M-U-T-E-M-B-E-R-A-Z-I, Pierre Crevalle. Do
- 14 you know him?
- 15 A. I know him.
- 16 Q. Can you tell Your Lordships who this man is
- 17 or was?
- 18 A. I know Pierre Crevalle Mutemberazi, he was
- 19 an old man who originally hailed from Tare,
- 20 which borders Shyorongi commune. I will
- 21 spell Tare, T-A-R-E. I will spell
- 22 Shyorongi, S-H-Y-O-R-O-N-G-I. He lived for
- 23 a very long time in Kigali because he worked
- 24 in Kigali. First, he was the Minister of
- 25 education. Later he was the Secretary

1 General at the Ministry of planning, and
2 when war broke out he was still the
3 Secretary general at the Ministry of
4 Planning, if my memory serves me well.

5 Q. Now, you say he was at one moment Minister
6 of Education, do you know who caused his
7 removal from the position of Minister of
8 Education before he became a
9 Secretary-General in the Ministry of
10 Planning, or why he was removed?

11 A. I was still very young. I did not know how
12 officials were appointed, but I heard that
13 at one point in time he went to either
14 Gikoro or Bicumbi, but I don't know exactly
15 where but this is what I was told.

16
17 So, on his way back he stopped somewhere and
18 he got drunk and it was said that he spent
19 the night in his vehicle and that on the
20 following morning people found him and
21 following that incident he was dismissed.

22
23 However, I have to point out that this is
24 what I heard because I did not personally
25 witness any of those events. I would like

1 to add that actually he had an accident. He
2 was involved in an accident.

3 Q. Now Witness, we now move faster towards the
4 end of this session but the question I will
5 ask here, I will ask the question because I
6 know that it will not reveal your identity,
7 and do not answer any question involving
8 yourself personally, in this line of
9 questioning, save by what you know.

10

11 You earlier told Your Lordship that you knew
12 Gatwa Tharcisse. Did you know the
13 profession of Gatwa Tharcisse?

14 A. Tharcisse Gatwa was a teacher at the Zige
15 secondary school. The Zige secondary school
16 was less than a kilometer from the Bicumbi
17 communal offices. I don't know when he
18 started teaching at that school because when
19 -- (part of the answer was redacted and put
20 under seal by order of the court)

21 MR. TAKU:

22 That answer should be struck off the record,
23 I asked him if he knew Gatwa and what he
24 did, and not, about himself.

25

1 MR. PRESIDENT:

2 You see, Mr. Witness, the question was, what
3 was the profession of this person and it is
4 necessary to give the direct and concrete
5 answer. The details you are mentioning etc,
6 it's not necessary. I hope you understood
7 it. Will you repeat it. Interpret it.

8 THE WITNESS:

9 He was a teacher.

10 MR. PRESIDENT:

11 This is the answer. All the other things
12 which have been said by the witness should
13 be in the record for closed session.

14 MR. TAKU:

15 Yes, My Lord.

16 BY MR. TAKU:

17 Q. Now Witness, I am not asking a question
18 about you, I am asking about Gatwa. So
19 answer about Gatwa not about yourself
20 because the question has nothing to do about
21 you. Explain to him.

22

23 Now Witness, you said you know Gatwa, he was
24 a teacher in the Zige secondary school. Can
25 you tell Your Lordships about his

1 activities, his conduct at the school where
2 he taught?

3 A. In Bicumbi, Tharcisse Gatwa was a biology
4 teacher. He was also a chemistry teacher.
5 I do not have any specific information on
6 Gatwa Tharcisse. What I know is that people
7 used to say that he was one of the people
8 causing trouble in Bicumbi. And actually it
9 was after such problems that he was
10 transferred to another school. People also
11 used to say that he used to train certain
12 students at his house but I don't know what
13 kind of training he gave to those young
14 people because I did not personally see what
15 training was involved.

16 Q. Now, my question is about the activities of
17 Gatwa in this school, Zige school that you
18 are talking about. Do you know any specific
19 events, any incidents that involved Gatwa in
20 the school, without revealing your personal
21 identity? If you know, tell Your Lordships
22 in open session, the rest will be disclosed
23 in the closed session but this part of it
24 should be said in open session.

25 A. People used to talk about Gatwa in relation

1 to the trouble that had occurred at Zige
2 school in the '90s, if my memory serves me
3 well. People used to say that he was the
4 root cause of the tension between students
5 at that school. People said that Gatwa
6 played a role in formatting the trouble but
7 I cannot tell you how, because I was not a
8 witness to any of those events.

9
10 With your permission, I can even give you
11 names of some of the students who were
12 involved in some of these activities and I
13 can give you their names in a closed
14 session.

15 MR. TAKU:

16 But I want to finish off that question in
17 open session before we move to the closed
18 session, because --

19 MR. PRESIDENT:

20 Okay.

21 BY MR. TAKU:

22 Q. Now Witness, can you tell Your Lordships
23 whether you know or not, whether in your
24 locality there were political meetings and
25 rallies, in 1994?

1 A. Although I was not often at my home, I know
2 that following the signing of the Arusha
3 Accords towards the end of 1993, people were
4 prohibited from organizing political
5 meetings. This means that in 1994 no
6 meetings, no political meetings could have
7 been held.

8 MR. TAKU:

9 My Lord, that will be the end in the open
10 session. We may go quickly to the closed
11 session, so that we finish very quickly.

12 MR. PRESIDENT:

13 We will go to the closed session

14

15 (At this point in the proceedings, a portion
16 of the transcript (pages 47 to 55) was
17 extracted and sealed under separate cover as
18 the session was heard in camera)

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1 1500H

2 MR. PRESIDENT:

3 The proceedings are resumed.

4 Mr. Eboe-Osuji, you may start your

5 cross-examination. You want it in the open

6 session?

7 MR. EBOE-OSUJI:

8 Yes, I would like to start in closed session

9 and get a few things out of the way.

10 MR. PRESIDENT:

11 Okay, we go to the closed session.

12

13

14 (At this point in the proceedings, a portion
15 of the transcript (pages 57 to 75) was
16 extracted and sealed under separate cover as
17 the session was heard in camera)

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2 MR. PRESIDENT:

3 We are in the open session. You may
4 proceed.

5 MR. EBOE-OSUJI:

6 Thank you, Your Honour.

7 BY MR. EBOE-OSUJI:

8 Q. Now, sir, we are in the open session, I will
9 now try not to ask you questions that are
10 targeted to your identification, and I would
11 appreciate it if you didn't add answers to
12 questions, answers that will reveal your
13 identification.

14

15 Now, it is your position that, at the time
16 of President Habyarimana's death Hutus in
17 the country were feeling threatened. Is
18 that right?

19 A. Based on my testimony, the testimony I have
20 given already – and if you so wish I can
21 give some more – there was lack of
22 confidence in the ethnic groups: it was not
23 only the Hutus who were scared, but the
24 Tutsis as well.

25 Q. So both ethnic groups had tension amongst

- 1 A. I prefer to say that there was an unsavoury
2 atmosphere. I prefer not to use the word
3 "tension".
- 4 Q. All right. But now listen to me carefully
5 and respond to the question: It is your
6 position that at the time that President
7 Habyarimana died all Hutus were feeling
8 threatened. Is it your position? Yes or
9 no.
- 10 A. At the death of President Habyarimana, the
11 attacks of the RPF was ongoing. Grenades
12 were being thrown here and there. Mines had
13 been laid here and there. Everybody was
14 worried.
- 15 Q. You are not answering my question. My
16 question is this: is it your position that
17 at the time of the death of President
18 Habyarimana all Tutsis -- sorry, all Hutus
19 were feeling threatened?
- 20 A. Prosecutor, you mean before the death of
21 President Habyarimana, or after his death?
- 22 Q. Is it the position that even a few days
23 before the death of Habyarimana, all
24 Tutsis -- all Hutus, sorry, all Hutus were
25 feeling threatened?

1 A. I will say that each and every one was
2 concerned, was worried, including the Hutus,
3 because even some of them were attacked, as
4 I pointed out earlier.

5 Q. You are still not responding to my question,
6 and I will keep asking you until you respond
7 to it, or until the Judges overrule me. My
8 question was very simple. You can say yes,
9 you can say no to it, but I will get an
10 answer from you.

11
12 Is it your position that, even a few days
13 before the death of President Habyarimana
14 all Hutus were feeling threatened? We will
15 talk later about the cause, but just answer
16 that question, yes or no.

17
18 I can still see you are giving a long
19 answer. I believe you can say "yes" or "no"
20 to the question.

21 MR. TAKU:

22 My Lord, again at this time we object. If
23 the witness feels that the answer deserves
24 an explanation he will do so. There is no
25 rule that says that witnesses must say "yes"

1 or "no" to questions.

2 MR. EBOE-OSUJI:

3 Your Honour --

4 MR. TAKU:

5 The only rule is that they should be brief
6 and answer the question asked. But to say
7 they must say "yes" or "no", I do not find
8 that in the Rules.

9 MR. PRESIDENT:

10 Ma question est, est-ce que vous avez
11 compris la question de Procureur?

12 THE WITNESS:

13 I clearly understood the question.

14 MR. PRESIDENT:

15 If you understood the question then answer,
16 because we cannot go over the same question
17 three times before we get an answer.

18 THE WITNESS:

19 Your Honour, Prosecutor, in relation to this
20 question I do not want to go beyond
21 explanations that I have given.

22 BY MR. EBOE-OSUJI:

23 Q. I will want you to respond "yes" or "no" to
24 that question. Sir, -- may I finish?

25

1 MR. TAKU:

2 My Lord, it is my right to object. If the
3 witness is not answering "yes" or "no" to
4 the question, the answer is clear, that
5 position is clear. It should reflect on the
6 record. There is no rule of evidence here
7 or procedure that says that a witness must
8 answer by "yes" or "no". He should point
9 that out. The only rule is that he should
10 be brief and to the point and to answer in a
11 relevant manner the question asked.

12 MR. PRESIDENT:

13 Mr. Osuji, it seems to me the witness has
14 the difficulties to answer this question.
15 From this point of view I understand;
16 therefore, it's difficult for him to say
17 "yes" or "no", taking into account that he
18 has the difficulties and he has no clear
19 picture how it could be, this question could
20 be answered.

21 MR. EBOE-OSUJI:

22 As the Court pleases. I will proceed.

23 BY MR. EBOE-OSUJI:

24 Q. Now, Witness, is it the case also that the
25 reason why all Tutsis felt threatened was

1 because of killings committed by the RPF,
2 according to you?

3 MR. EBOE-OSUJI:

4 Your Honour, I said "Tutsis"; the question
5 should be "Hutus". I will repeat the
6 question.

7 MR. PRESIDENT:

8 Will you repeat the question as to avoid
9 the --

10 MR. EBOE-OSUJI:

11 Confusion.

12 MR. PRESIDENT:

13 -- difficulties, confusion.

14 BY MR. EBOE-OSUJI:

15 Q. Witnesses, is it your position that the
16 reason why all Hutus felt threatened was
17 because of some killings committed by the
18 RPF?

19 A. After all, we are all human. If you hear
20 that somebody you know has been killed and
21 that anywhere the RPF attacks they massacre
22 people, it is normal that you should also be
23 scared.

24 MR. PRESIDENT:

25 Witness, try to give the direct and concrete

1 answers, and not of general character.

2 BY MR. EBOE-OSUJI:

3 Q. Witness, I will ask you again. Is it your
4 position that the reason why all Hutus felt
5 threatened was because of killings committed
6 by the RPF, according to you?

7 A. In my opinion, and based on information that
8 I received, I was scared, and I do not want
9 to generalize. I just like to crave your
10 indulgence on this issue.

11 Q. Very well. Is it your position, also, that
12 all of this, all of what I have described
13 and put to you, forced many Hutus to adopt
14 self-defence strategies in anticipation of
15 attacks?

16
17 Witness, now -- no. From now on, I want
18 "yes" or "no" to questions that you can
19 respond "yes" or "no" to. I want you to
20 listen to me very carefully -- Your Honours,
21 if I may finish?

22 MR. TAKU:

23 My Lord, we hear for the translation first;
24 we do not understand what the witness said.
25 I am entitled to know exactly what the

1 witness said. It's not just the Prosecutor
2 alone who is interested in this. We are
3 entitled to know what he said, and besides,
4 the question of "yes and no", My Lord, has
5 been addressed.

6 MR. PRESIDENT:

7 Mr. Osuji, interpretation first, and after
8 that we will see.

9 MR. EBOE-OSUJI:

10 Your Honour, I have seen, I know when
11 somebody can say "yes" or "no", even in
12 Kinyarwanda.

13
14 This witness, I saw him going on and on, and
15 I thought I should tell him that where
16 questions are amenable to a yes-or-no answer
17 we should get it. Your Honours, I will be
18 asking, I will be doing my cross-examination
19 until I am done, even if it takes us two
20 days to do this witness.

21 MR. PRESIDENT:

22 Mr. Osuji, but the Judge, Judges, don't
23 understand whether he said "yes" or "no",
24 maybe he said "yes" or "no", and he is given
25 explanation why "yes" or "no". If this is

1 the explanation why this is "yes" or "no",
2 this is his right to explain. Therefore,
3 let's interpret it and after that we will
4 see the situation.

5 MR. EBOE-OSUJI:

6 Very well. No problems.

7 THE WITNESS:

8 Before I answer this question, let me say
9 that there was no consultation to take these
10 self-defence measures. Each one at his own
11 level adopted --

12 MR. TAKU:

13 I heard in French "consternation", not
14 "consultation" - "consternation".

15 THE INTERPRETER:

16 Well, Your Honour, my interpretation of
17 "consultation" is "consultation".

18 MR. PRESIDENT:

19 Proceed.

20 THE WITNESS:

21 Before I answer this question, I would like
22 to say that each one took protective
23 measures, there was no consultation to adopt
24 these measures for self-defence.

25

1 For example, in my area I realized that
2 people strengthened their gates. Each
3 person had tried to adopt a measure to
4 protect himself. Some people left their
5 regions, went to Gisenyi, because they
6 thought that they are being forced to leave
7 the country. Some bourgmestres, members of
8 the population, sought out people to ensure
9 their security.

10 MR. PRESIDENT:

11 Witness, I am saying, I have told you on
12 some other occasions, and I have to repeat,
13 that your answer means "yes", but then you
14 don't need to say all that. You are just
15 repeating what you said before. The answer
16 to the Prosecutor's question is, yes, each
17 person took measures to protect himself.
18 That's what you said earlier on. That is
19 why you should answer the question in a very
20 concise manner, and not say so much.

21
22 You need to answer the question. The
23 question was very clear, and your answer, as
24 I understood it, is "yes". So what was the
25 point for saying all what you said? It is

1 not necessary. What do you want? You want
2 to add something?

3 THE WITNESS:

4 It is to explain a little, explain myself in
5 relation to that.

6 MR. PRESIDENT:

7 You don't need to. As a witness, you just
8 need to answer the questions that are being
9 put to you. That is your obligation. The
10 responsibility of the witness is to answer
11 questions. That's it.

12 THE WITNESS:

13 And in a clear manner, Your Honour.

14 MR. PRESIDENT:

15 Yes. If Counsel finds it necessary to ask
16 for clarification then he will ask follow-up
17 questions. But why say so much? It is not
18 necessary. You just need to answer the
19 questions.

20 MR. EBOE-OSUJI:

21 Witness, I see you are laughing and smiling
22 while the Judge was talking to you. What is
23 funny?

24 MR. TAKU:

25 My Lord we object to this. The comment or

1 the question does not relate to the evidence
2 before Your Lordships. Your Lordships
3 alone, you are the only police of the
4 proceedings here. If a witness laugh or do
5 anything that Your Lordship felt was
6 unorthodox it is for Your Lordships to
7 intervene, but not another party, My Lord.

8 MR. PRESIDENT:

9 I would like --

10 MR. TAKU:

11 It would teach the witness -- no, My Lord,
12 the Rules clearly say the witness should not
13 be intimidated. He should not be
14 intimidated in this way, My Lord.

15 MR. PRESIDENT:

16 I would like to draw your attention, it's
17 four o'clock. It is necessary to proceed
18 and to complete the examination --
19 cross-examination.

20 MR. EBOE-OSUJI:

21 Your Honour, my fear is it looks like the --
22 I will make this observation on another
23 occasion, Your Honour.

24 MR. PRESIDENT:

25 Okay. Move on, please.

1 BY MR. EBOE-OSUJI:

2 Q. Witness, this is a very serious matter:
3 somebody is charged with genocide and other
4 serious offences. It is very serious, and I
5 would advise that you take it that
6 seriously.

7

8 Now, my question to you is this: is it your
9 position that because all Hutus were feeling
10 threatened because of what you described as
11 RPF-killing of Hutus, as a result many Hutus
12 adopted self-defence strategies in
13 anticipation of attacks. Is it your
14 position, sir?

15 A. If I understand clearly, I would like to
16 apologize, but I think we are coming back to
17 the same question.

18 THE INTERPRETER:

19 And I think I am just repeating the words
20 said by the witness.

21 MR. EBOE-OSUJI:

22 Can you answer the question.

23 MR. PRESIDENT:

24 Witness, could you answer that question,
25 please.

1 BY MR. EBOE-OSUJI:

2 Q. I didn't get the interpretation to that, but
3 I think the Judge has moved on so I will
4 stay with the Judge, sorry.

5 A. I am going to repeat what I said. It was
6 obvious that following the fact that people
7 were being killed by grenade explosions,
8 land mines which were planted everywhere,
9 one could even hear the explosion of mines,
10 in cases, and that was the situation which
11 was out of control.

12
13 So people could not really know who their
14 attackers were. That is why some people
15 started taking measures to protect
16 themselves. I gave you the examples of
17 people, who had the means to do so, looked
18 for security guards in order to protect
19 them; for example, authorities looked for
20 policemen or gendarmes who would protect
21 them.

22
23 The people, the ordinary people, began
24 fleeing. For them, fleeing was a way of
25 avoiding being killed. There are many

1 examples, but every person tried to protect
2 himself or herself in one way or another.

3 Q. All right. I need you to listen carefully:
4 have you made a statement in which you said
5 as follows. Listen, I will read:

6
7 "Already, a few days before President
8 Habyarimana's assassination in 1994, the RPF
9 had succeeded in eliminating or killing many
10 Hutus to the extent that all Hutus felt
11 threatened and targeted. This forced many
12 of them to adopt self-defence strategies in
13 anticipation of attacks."

14
15 Have you made a statement saying that?

16 THE INTERPRETER:

17 Counsel, the Kinyarwanda interpreter is
18 requesting you to point out the passage to
19 him.

20 MR. EBOE-OSUJI:

21 To who? To the interpreter? I want just
22 the interpreter to look at it, not the
23 witness. I believe the interpreter may have
24 been pointed to where it is.

25

1 Interpreter, I don't want the witness to
2 look at the statement while you are looking
3 at it. I see him looking over.

4 MR. TAKU:

5 My Lord, the rules are that if counsel has
6 to refer to the statement made by the
7 witness he has to hand over a copy of the
8 statement to him and refer to the passage
9 and then he can ask the question. He
10 cannot, he cannot, My Lord --

11 MR. EBOE-OSUJI:

12 Your Honour, this is becoming unbearable.

13 MR. TAKU:

14 My Lord, I am up. The same rules apply to
15 me, My Lord, up to the extent that I was
16 ruled that I was misusing witness
17 statements. I can remember that quite well,
18 My Lord, and this applies here. That was
19 said to me a number of times when I was
20 cross-examining Prosecution witness.

21
22 So in this particular case in order not to
23 misuse the statement, the passage should be
24 referred to the witness, the witness will be
25 allowed to read it, and the witness can now

1 answer the question for purposes of
2 accuracy, My Lord, in order to ascertain
3 that the witness is quoted rightly.

4 MR. EBOE-OSUJI:

5 Your Honour, I have not yet even landed on
6 any specific statement. I said, have you
7 made any statement saying this. If I am
8 landing on a statement yes, I will do that,
9 but I need the witness' answer when I hear
10 him say those words to anyone on a previous
11 occasion.

12 MR. PRESIDENT:

13 Yes. This is not the question about the
14 contradiction. This is a question whether
15 the witness said it, or not. Therefore, the
16 interpreter ask you to help him just to see
17 whether this part of the statement is to be
18 interpreted.

19 MR. EBOE-OSUJI:

20 Very well, Your Honour. My concern was, as
21 the interpreter was flipping through the
22 statement the witness was also anxiously
23 looking at what the interpreter was looking
24 at, and I thought that shouldn't happen.

25 MR. PRESIDENT:

1 Mr. Osuji.

2 BY MR. EBOE-OSUJI:

3 Interpreter, you are all right now?

4 Interpreter nods.

5 Q. So, Witness, have you on any previous
6 occasion, before you came to court to
7 testify today, said those words to anybody?

8 A. It depends on how you interpret these
9 things, because one can interpret words in
10 various ways.

11 Q. Witness, we are not talking here about
12 interpretation or the meaning. The question
13 was, did you say that or you didn't say it?

14 A. Yes, I said so.

15 MR. PRESIDENT:

16 Well, then you should have said so. That is
17 all.

18 BY MR. EBOE-OSUJI:

19 Q. And in this statement you do, indeed,
20 generalize about all Hutus. Is that
21 correct? Even though you told me before you
22 couldn't do that.

23

24 MR. TAKU:

25 My Lord, the statement speaks for itself.

1 He has already made a speech for himself.
2 The question of interpretation will be left
3 to Your Lordships about what is there. And
4 I do not see going back and picking word for
5 word and saying this is what he said in that
6 statement, when the whole statement has been
7 read and he has confirmed that indeed he
8 said that.

9 MR. EBOE-OSUJI:

10 Your Honour, Mr. Taku is beginning now to --

11 MR. TAKU:

12 "Counsel", he should refer to me as
13 "counsel". It's not "Mr. Taku" here. That
14 is the proper language.

15 MR. PRESIDENT:

16 Not simultaneously. I said now the
17 Prosecutor has the right to respond.

18 BY MR. EBOE-OSUJI:

19 Thank you very much.

20 Q. Witness, is it also your position --

21 MR. PRESIDENT:

22 And what is your answer, with regard to the
23 statement of Mr. Taku?

24 MR. EBOE-OSUJI:

25 Your Honour, about --? I moved on.

1 BY MR. EBOE-OSUJI:

2 Q. Witness, is it your position that although
3 the state of affairs you just described in
4 that passage existed before the death of the
5 President, the death of the President was
6 indeed the last straw. Is that your
7 position?

8 A. I think that such was the situation, the
9 President's death was the cause of total
10 chaos.

11 Q. And the Hutus felt that the one person left
12 on whom they could count had also been
13 murdered. Is that your position?

14 A. That was obvious, and I can give an
15 explanation to that.

16 Q. And that logically, and against that
17 background, all Hutus felt that they would
18 be the next to be killed. Is that your
19 position?

20 A. Yes, it was obvious.

21 Q. And you tell the Court that what you meant
22 by "self-defence strategies" in that context
23 was that Hutus started reinforcing their
24 gates. Is that what you have told the
25 Court?

1 A. It is one of the strategies that I referred
2 to.

3 Q. Thank you. And the next strategy, or
4 another strategy would be that some
5 extremist Hutus – not all Hutus, now – but
6 some extremist Hutus now felt that they
7 would have to kill the Tutsis before they
8 themselves get killed. Is that another
9 self-defence strategy?

10 A. This kind of strategy is not among those
11 that I saw and which I referred to here.

12 Q. Could it have been one of the strategies
13 that came to your mind when you were
14 suggesting self-defence strategies?

15 A. I did not adopt any strategy. The only
16 strategy I adopted was to flee when I had
17 the opportunity. I left the house and I
18 fled.

19 Q. I think you may have misunderstood my
20 question. My question to you was this: when
21 you talked about Hutus adopting self-defence
22 strategies, and when you thought that one of
23 those strategies was to reinforce their
24 gates, could you also have been thinking
25 that the self-defence strategies that some

1 extremist Hutus may have adopted would be to
2 kill Tutsis before they thought they
3 themselves, the Hutus, get killed?

4 A. I am not aware of the strategy. And this
5 strategy is not among those that I mentioned
6 and those that I saw.

7 Q. The fact is, sir, that you did not mention
8 any specific strategy in your statement.
9 You did not even talk about reinforcement of
10 gates in the statement you gave to the
11 defence investigator. Am I right?

12 MR. TAKU:

13 I am sorry, My Lord, I do not intend to get
14 up so many times. We may all know the
15 meaning of auto-defence. We all know
16 auto-defence. To give a particular context,
17 and even suggest that he has not been --
18 after the witness has more than five times
19 said that he intended to come here --

20 MR. EBOE-OSUJI:

21 My friend is beginning to suggest answers to
22 the questions and that is -- we cannot
23 proceed that way.

24 MR. TAKU:

25 The question was not about the meaning of

1 auto-defence. I am only saying that he
2 decided to give a specific context to
3 auto-defence. He said a specific context.
4 He is said to presume that the particular
5 context of auto-defence has been adopted by
6 the witness, in the manner in which he is
7 asking these questions, My Lord.

8 MR. EBOE-OSUJI:

9 Let me repeat the question so my friend
10 understands the last question.

11 MR. PRESIDENT:

12 Yes. Will you repeat.

13 BY MR. EBOE-OSUJI:

14 Q. Witness, listen, and I am sure my friend
15 will be listening as well. My question is
16 this: in your statement you do not indicate
17 any specific mode of self-defence strategies
18 adopted by Hutus, when you spoke about
19 self-defence strategies in your statement.
20 Is that correct?

21 A. I cannot mention other strategies other than
22 those that I have mentioned here.

23 Q. In your statement, you do not suggest in
24 your statement, but that when you said
25 "self-defence strategy" in your statement

1 you meant reinforcement of gates. You do
2 not say that in your statement. Is that
3 correct?

4 MR. TAKU:

5 My Lord, I would like that translation in
6 Kinyarwanda. From what I have just been
7 told that the first reply that he gave, the
8 last reply, should be repeated because the
9 witness, from what I understand, said that
10 "I am here to tell you what I know." But
11 that aspect of it I didn't hear, My Lord.

12 MR. PRESIDENT:

13 No, this is not the repetition. Before
14 answer was given twice that when he was
15 talking about the self-defence he meant, to
16 reinforce the gates, the windows, et cetera.
17 But he did not mean, and he doesn't know
18 anything about the strategy to eliminate the
19 Tutsi before Hutu are killed.

20
21 Now the question is very simple. Whether,
22 whether, he mentioned about the self-defence
23 strategy in his statement to the
24 investigator.

25

1 MR. TAKU:

2 The details, when he mentioned these details
3 he talked about self-defence in his
4 statement. But whether he mentioned these
5 details in his statement, I wonder whether
6 that is the question, My Lord.

7 MR. PRESIDENT:

8 Now the question is very simple, whether he
9 mentioned about these dates in the
10 statement; therefore, he has to answer.
11 It's a very simple question.

12 BY MR. EBOE-OSUJI:

13 Q. Witness, you did not mention reinforcement
14 of gates as a self-defence mechanism, you do
15 not mention that in your statement. Am I
16 right?

17 A. I have said this so many times before this
18 Chamber. I told you that when I was giving
19 my written statement I did not give details,
20 and I am doing so here before this Chamber.

21 Q. So when you gave your statement to the
22 investigator, you did not say that
23 self-defence strategy meant reinforcement of
24 gates? "Yes" or "no".

25 A. I did not mention that because I was ready

1 to do so before the Court.

2 Q. Very well. Now you said that you did not
3 mean by "self-defence strategies" that some
4 Hutus would go about eliminating Tutsis.
5 You said you did not mean that, but you do
6 admit that that did happen following the
7 crash of the President's plane on the 6th of
8 April 1994.

9
10 It is taking you too long to answer. Can
11 you answer the question?

12 MR. TAKU:

13 My Lord, we object, we object, My Lord.
14 These are acts of intimidation, My Lord. It
15 is for Your Lordships to ask him to answer,
16 My Lord.

17 MR. PRESIDENT:

18 This is not intimidation, but at the same
19 time it is not proper to exercise the
20 pressure on the witness.

21 MR. EBOE-OSUJI:

22 Your Honour, I am not exercising pressure.
23 What happens is this, Your Honours: when you
24 begin to read the transcript you will get,
25 question asked; answer given immediately.

1 We will not see, there would be no
2 reflection that the witness did think about
3 it. He can take his time and think. I am
4 not saying he must answer immediately, but I
5 have to reflect on the record that he is not
6 answering rapidly, that when we get -- when
7 you read the transcript.

8 MR. PRESIDENT:

9 That's another matter. But maybe it could
10 be done in another form, not to produce the
11 impression that you exercise the pressure,
12 you exercise the pressure on the witness.

13 MR. EBOE-OSUJI:

14 Very well, I will think about how to do it.

15 MR. PRESIDENT:

16 And tell me please, what is the situation?
17 Now it's 4:30.

18 MR. EBOE-OSUJI:

19 At the pace we are going it looks like I
20 will need at least three hours, at the pace
21 we are going, if no questions are answered
22 rapidly. We are moving very, very slowly.
23 I have been able to dispose of some
24 witnesses in 30 minutes, and I am not able
25 to do that but I intend to finish my

1 cross-examination with this witness.

2 MR. TAKU:

3 My Lord, he should be allowed to take his
4 time, even if he takes one week it is his
5 right. Provided Your Lordship will deal
6 with that, that will do justice. So we are
7 not in a haste. He is here.

8 MR. PRESIDENT:

9 We are not in the haste, but at the same
10 time we have to know what is the situation
11 because we have to plan, the planning is
12 necessary in our work. You may proceed.

13 MR. EBOE-OSUJI:

14 Very well, sir.

15 BY MR. EBOE-OSUJI:

16 Q. Can you answer my last question, please?

17 THE INTERPRETER:

18 Your Honour, if the witness wants to speak
19 French, he should speak close into his
20 microphone so we can take him directly from
21 French.

22 MR. EBOE-OSUJI:

23 The interpreter is talking about the witness
24 speaking French.

25

1 THE INTERPRETER:

2 And he is too far from the microphone, so we
3 can't get him.

4 MR. TAKU:

5 My Lord, just -- my witness, my witness, you
6 have elected to speak in one particular
7 language and the Court cannot be moving from
8 one language into another. If you want to
9 change your mind, tell Their Lordships that
10 you intend to change your mind and speak in
11 French, than to speak from French to
12 Kinyarwanda. That makes the proceedings
13 difficult.

14 MR. PRESIDENT:

15 Mr. Taku, you create the difficulties.
16 Let's avoid such a situation when you find
17 it necessary to comment everything. In this
18 case he is speaking Kinyarwanda. If, if,
19 the answer was given in French, it's not
20 proper to create the problem from this.

21 MR. TAKU:

22 He is my witness, My Lord, and I want that
23 the record should reflect in which language
24 he was speaking. It should not be either
25 that he was speaking in fluent English. He

1 elected to speak in a particular language
2 and he should be consistent.

3 MR. PRESIDENT:

4 Let's do in such a way if you want to speak,
5 you have to ask the floor.

6 BY MR. EBOE-OSUJI:

7 Q. So Witness, can you give me the answer to
8 the question. My question is to you, if you
9 want me to repeat, is this --

10 MR. PRESIDENT:

11 Yes, the witness ask you to repeat the
12 question.

13 MR. EBOE-OSUJI:

14 Very well.

15 BY MR. EBOE-OSUJI:

16 Q. Do you admit that during April 1994,
17 following the death of the President, some
18 Hutus went about killing Tutsis as a result.
19 Do you admit?

20 A. I came here to testify on facts that I know,
21 facts that I witnessed. Personally, I did
22 not see killings.

23 Q. Did you now know that some Hutus had gone
24 about killing Tutsis following the crash --
25 or the death of the President on the 6th of

- 1 April, 1994?
- 2 A. I personally did not witness any, but I
- 3 heard people talk about it.
- 4 Q. Very well. Now it is your -- you do know,
- 5 don't you, you are aware that Mr. Semanza is
- 6 standing trial for having participated in
- 7 some of those killings?
- 8 A. His presence here indicates to me that those
- 9 are the charges brought against him.
- 10 Q. But it is your position that he could not
- 11 have participated in the killings because he
- 12 had maintained good relationship with
- 13 everybody. Is that your position?
- 14 A. That is correct.
- 15 Q. And that he could not, therefore, have
- 16 participated in massacres. Is that your
- 17 position as well?
- 18 A. That is what I think.
- 19 Q. So you do agree that there were massacres in
- 20 Rwanda following the crash of the
- 21 President's plane on the 6th of April, 1994?
- 22 A. The massacres started before. It was not in
- 23 1994 that it started. The chaos was there
- 24 well before.
- 25 Q. But fair enough, fair enough, and we will

1 talk about that later. But for now let us
2 just focus on what happened up to the death
3 of the President on the 6th of April, 1994.

4
5 So it would be then your position that yes,
6 indeed, there were massacres during that
7 period even though there were other
8 massacres before. Is that your position?

9 A. I indeed said that much earlier. I said I
10 was no witness to massacres, but I heard
11 people say that there were massacres.

12 Q. So can you tell me, "yes" or "no", do you
13 agree with my proposition that I gave to you
14 just now?

15 A. I crave your indulgence, Mr. Prosecutor, but
16 I am not sure if to answer "yes" or "no"
17 will better explain the question you are
18 putting to me in relation to the answer I
19 have just given.

20 Q. All right. Stay with me. Now, you said
21 there were massacres before the 6th of
22 April, 1994?

23 A. I stated that, but I also added that I was
24 not a witness; I heard people talk about it.

25 Q. Yes, that is what you said. That's good

- 1 enough. Now, it is also your position,
2 then, that there were also massacres after
3 the 6th of April, 1994, following the death
4 of the President?
- 5 A. I gave additional explanation. I did say
6 that I heard people say it but I did not
7 witness it myself.
- 8 Q. Very well. And would it be your position
9 that those massacres were as a result of
10 ethnic hatred?
- 11 A. As I said, I am not in a position to
12 characterize these massacres, because before
13 then there was chaos.
- 14 Q. The massacres that happened before 1994, to
15 whom would you attribute the blames for
16 them?
- 17 A. As I said earlier, and from the information
18 that I received, when advancing in these
19 attacks RPF killed people, and with the help
20 of these infiltrators they killed people in
21 a selective manner.
- 22 Q. And this would have happened following the
23 attack of the RPF in October 1990, according
24 to you, that is?
- 25 A. The negative atmosphere which prevailed

1 since 1990 remained up to when the country
2 was taken over, and when people were
3 compelled to leave the country.

4 Q. Now, what you are saying is that these
5 massacres you were describing happened
6 between 1990 and what time? I need you to
7 be more precise.

8 A. Counsel, I do not understand your question
9 clearly. Could you kindly repeat your
10 question.

11 Q. What part of it did you not understand, sir?

12 A. The whole question.

13 Q. All right. Is it your position that RPF, or
14 you heard that the attacks that happened
15 before the crash of the President's plane
16 were perpetrated by the RPF, the massacres,
17 now, were committed by the RPF. Is that
18 your position?

19 A. This is what people said.

20 Q. And these massacres took place between 1990
21 and the 6th of April, 1994?

22 A. Speaking of massacres in Rwanda, I would say
23 that the massacres began from 1990 and
24 continued even in the refugee camps up to
25 1996.

1 Q. Now, let's look at these things you heard.
2 Did you also hear that there was a special
3 rapporteur of the United Nations - let's
4 leave it as a special rapporteur - who
5 carried out investigations into killings in
6 Rwanda between 1990 and 1993? Did you hear
7 that?

8 A. No, I did not hear of that.

9 Q. Did you hear that at the conclusion of this
10 investigation the special rapporteur issued
11 a report?

12 MR. TAKU:

13 My Lord, we are sorry that we have to get up
14 once more. He said he didn't hear about any
15 report at all. Why now ask about the
16 report?

17 MR. EBOE-OSUJI:

18 He can keep saying "no" but I intend to
19 follow through with my questions.

20 MR. TAKU:

21 My Lord, My Lord, we want that there should
22 be some equity in this. We found ourselves
23 in this situation before and I know the way
24 Your Lordship rules. Once the witness says,
25 no, I am not aware of any investigation by

1 any special rapporteur, why do you ask him
2 about a report?

3
4 If he had said "yes", then you can refer to
5 the report. But he has said no, he didn't
6 even know about any special investigator
7 investigating, carrying out any
8 investigation in Rwanda from 1990 to 1993.

9 MR. EBOE-OSUJI:

10 Your Honour, the witness has given a version
11 of events that happened in his country. My
12 learned friend led him through putting this
13 material on the record. Now I want to put
14 to him another version of it. Let the
15 witness say yes, this is in compliance with
16 what I have heard and what I knew, or no,
17 this is not.

18
19 This is what I am going to do now. They are
20 the ones who opened the door and we have to
21 follow through with it.

22 MR. TAKU:

23 My Lord, can he be questioned about a report
24 he doesn't know about? Can he be questioned
25 about an enquiry he doesn't know about? So

1 there is no relevance here, My Lord.

2 MR. EBOE-OSUJI:

3 Your Honour, the witness has given a very
4 clear testimony that did not even come
5 out -- was not initiated onto the record as
6 a result of cross-examination. The witness
7 was led during his examination-in-chief, on
8 his testimony in chief, to talk about
9 killings by RPF at a certain time. He said
10 he heard.

11
12 Yes, we know. Since he has heard can we now
13 put to him other things he may or may not
14 have heard? He may say, in putting these
15 things to him it often happens occasionally
16 that witness says, "Ah, now I remember
17 that", or even if they don't say, "Ah, I
18 remember that", we put to them -- okay, this
19 is a version of the events, is that what you
20 are talking about? What is your response to
21 it since you have talked about this sort of
22 event during your examination?

23 MR. PRESIDENT:

24 May I understand that you would like to ask
25 whether the witness is aware about the

1 result, not about the report? Because --

2 MR. EBOE-OSUJI:

3 Yes, Your Honour.

4 MR. PRESIDENT:

5 In this case, I think such a question is

6 allowed.

7 MR. EBOE-OSUJI:

8 Very well.

9 MR. TAKU:

10 My Lord, I want us to be clear. The result

11 of what, My Lord?

12 MR. EBOE-OSUJI:

13 My Lord, I think this is getting --

14 MR. TAKU:

15 My Lord, the Defence would like to -- it is

16 our right. The result of what? He asked

17 about the report, he said he didn't know

18 anything about the report. The result of

19 what?

20 MR. PRESIDENT:

21 Mr. Taku, this is the right of witness, not

22 of the Defence. If the witness would like

23 to clarify, if something is not clear for

24 him he is able and this is his right to ask

25 to repeat, or to clarify.

1 MR. TAKU:

2 So the Defence is here just to formalize the
3 proceedings? We have no role to play in
4 this case, My Lord? If it is only the right
5 of witness, then why are we here, My Lord?

6 MR. PRESIDENT:

7 You have the right to play, but in
8 accordance with your rights and in
9 accordance with the limits which are
10 provided in our Rules of Procedure.

11 MR. TAKU:

12 And what do the Rules say, My Lord, in this?
13 That when a witness says he doesn't know the
14 existence of the report he can be asked
15 question about its conclusion?

16 MR. PRESIDENT:

17 Let's not to continue this discussion
18 because you are preventing the Prosecutor
19 from cross-examination.

20 MR. TAKU:

21 We would like it to be noted on record that
22 Your Lordship considers our observations on
23 this particular issue as an obstruction, but
24 we protest, My Lord.

25 MR. EBOE-OSUJI:

1 Your Honour, if I may continue.

2 BY MR. EBOE-OSUJI:

3 Q. Witness, did you hear that between October
4 1990 and January 1993 at least two thousand
5 civilians had been victims of killings in
6 Rwanda?

7 A. No, I did not hear about that.

8 MR. PRESIDENT:

9 Mr. Osuji, it's five o'clock, what is the
10 situation? To postpone for tomorrow, or you
11 are able to complete?

12 MR. EBOE-OSUJI:

13 I cannot conclude today. If I had -- one
14 second, sir. I should be able -- the reason
15 I say -- let me sort my position. The
16 reason I say I cannot conclude today is the
17 history of this particular cross-examination
18 does not give me hope. But if I can put
19 straight questions to the witness and get
20 short answers to them I can be done in 30
21 minutes.

22 MR. PRESIDENT:

23 Thirty?

24 MR. EBOE-OSUJI:

25 Thirty, three zero, Your Honour. Before you

1 rule, may I --

2 MR. PRESIDENT:

3 In such a situation the proceedings will be
4 adjourned, and I hope that then tomorrow
5 morning you will be able to complete your
6 cross-examination.

7

8 MR. EBOE-OSUJI:

9 Your Honour, I hope so too.

10 MR. PRESIDENT:

11 Okay. There are only two issues I would
12 like to clarify. The first of all I would
13 like to ask the registrar to check what is
14 the situation with the witness CBN and to
15 find out whether tomorrow this witness could
16 be available. And, Mr. Taku?

17 MR. TAKU:

18 Yes, My Lord. The witness, we have a
19 medical report here that the witness could
20 be available tomorrow, but the witness will
21 come to court only when it is time for her
22 to testify. She cannot come and wait the
23 whole morning because of her special
24 situation without being called to testify.

25

1 So if we can have an idea about when she may
2 come tomorrow, then she may come. Here is
3 the medical report, My Lord, that we
4 received from the Witness Protection Unit in
5 respect of this witness.

6
7 So the witness will be available tomorrow
8 but she will only come here when -- just
9 shortly before she is going to testify, but
10 not to come and remain here the whole
11 morning, My Lord. So I hand over this
12 medical report to the registrar, My Lord, to
13 Your Lordship.

14 MR. PRESIDENT:

15 And there is one more question to you, and I
16 would like to ask you, this is the question,
17 not to have the answer but to think over.
18 This morning you mentioned that you are
19 going to move before the Chamber with the
20 oral motion without the calendar.

21
22 What I would like to ask you, the planning
23 is based on the present list of witnesses,
24 but so far we don't know what would be the
25 final list of witnesses, taking into account

1 your application about six expert witnesses.

2

3 Therefore, I would like to ask you to think
4 over whether we are able to consider your
5 motion before the situation is clarified as
6 the final list of witnesses, because as I
7 told you, and you understand yourself, the
8 planning is based on the present list of
9 witnesses and no doubt if there are changes
10 in this list the planning should be changed.
11 From this point of view I don't ask you to
12 answer, I ask you to think over about it.

13 MR. TAKU:

14 Yes, My Lord, we will advise ourselves about
15 that and give you an appropriate answer,
16 because there are also --

17 MR. PRESIDENT:

18 Think over, think over.

19 MR. TAKU:

20 -- there are also other statutory rights of
21 the Accused within the Rules which could be
22 exercised. We will advise ourselves and let
23 Your Lordship know about this.

24 MR. PRESIDENT:

25 Yes, think over, and the proceedings are

1 adjourned until tomorrow at 9 --

2 MR. TAKU:

3 My Lord, I am sorry, My Lord. Mr. Alao has
4 something very urgent --

5 MR. PRESIDENT:

6 Mr. Taku.

7 MR. TAKU:

8 -- to raise, My Lord, something about
9 witness protection, and it concerns --

10 MR. PRESIDENT:

11 Mr. Taku, I am saying, therefore, why you
12 interrupt me?

13 MR. TAKU:

14 I am sorry, My Lord, I thought Your Lordship
15 was going to adjourn the proceedings. I am
16 sorry that I got up a bit late, because Mr.
17 Alao just drew my attention to some witness
18 protection issue which came to his knowledge
19 from Witness Protection, and I thought that
20 perhaps he can see how he can raise it, My
21 Lord.

22 MR. PRESIDENT:

23 This is if the question is such that it has
24 to be considered right away?

25 MR. TAKU:

1 Right away, My Lord. It's not a matter of
2 controversy, My Lord.

3 MR. PRESIDENT:

4 Okay. What is the issue?

5 MR. TAKU:

6 Okay, My Lord, we are very sorry we didn't
7 -- if the Learned Prosecutor can bear with
8 us, perhaps immediately we rise we can meet
9 Your Lordships in chambers, both parties,
10 and raise. It is not against the Learned
11 Prosecutor but it is something that he needs
12 to know about. So we can meet Your Lordship
13 in chambers shortly after this and bring it
14 to your attention, My Lord.

15 MR. EBOE-OSUJI:

16 Your Honour, maybe the witness should then
17 be excused, and then we might as well have
18 whatever it is now. Instead of following
19 you to your chambers and doing that, we can
20 get it all -- it's up to you.

21
22 But what I would crave the Court's
23 indulgence is to remind the witness and all
24 parties of the witness that he is still
25 under oath and no contacts be made with him

1 until his cross-examination is done.

2 MR. TAKU:

3 I have no opposition to the application, My
4 Lord. It is the appropriate application to
5 make in the circumstances.

6

7 With regard to the issue raised, we prefer
8 to be in chambers because there is no need
9 to raise it in open court, or even put in
10 the proceedings. It is something we can
11 raise within ourselves and then the
12 registrar will take note about that, My
13 Lord.

14 MR. EBOE-OSUJI:

15 In closed session after the witness is
16 excused we can do that.

17 MR. TAKU:

18 My Lord, even in closed session we don't
19 want to put it in the proceedings at this
20 point in time, because we do not want
21 anybody to feel that we are trying to build
22 any problem about him. If we had received
23 the information much earlier, we would have
24 resolved that with the registry. But,
25 unfortunately, we received it just when we

1 were here in court.

2 MR. PRESIDENT:

3 Okay, there is such a suggestion – we will
4 go to the chamber of the Judges to settle
5 this problem.

6 MR. TAKU:

7 Thank you, My Lord.

8

9 MR. PRESIDENT:

10 And excluding, you know, the witness.
11 Only thing I wanted to say, and you
12 interrupted me, that tomorrow we will
13 resume our proceedings at 9:30

14

15 (Court adjourned at 1710H)

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18 (Pages 68 to 123 by Karlene Ruddock)

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C E R T I F I C A T E

We, Haruna Farage, Judith Kapatamoyo, and Karlene Ruddock, Official Court Reporters for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (stenotype) and thereafter transcribed by computer under our supervision and control; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

Haruna Farage (pages 1-47)

Judith Kapatamoyo (pages 47-55, 57-67 closed)
(pages 56-56 open)

Karlene Ruddock (pages 68-75 closed)
(pages 76-123 open)